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BOOK REVIEWS

CASES ON THE LAW OF BILLS AND NOTES. Second Edition. By Ralph W. Aigler, with Roy L. Steinheimer, Jr., St. Paul: West Publishing Co., 1955. Pp. xx, 566.

In teaching most second and third year law school courses the instructor hopefully assumes that his class has a reasonable familiarity with the basic principles of Contract, Torts, and the other first year materials, and proceeds from there to build a more or less coherent and logical structure dealing with the particular subject with which he is concerned. In a sense he works a variation on a familiar theme, more intricate perhaps, but, none the less, recognizable. The class may not know where it is going but it knows, to some extent, where it has been, and the road ahead holds promise of a concrete and understandable destination.

Reliance upon this orderly progression is, however, of no value to the teacher of Bills and Notes. Its origins are in the Law Merchant, not the Common Law—in Fair and Staple Courts instead of King's Courts and Chancery—in Custom rather than Writ. The Uniform Negotiable Instruments Law is not uniform; the cases reflect the confusion attendant upon the Common Law's effort to absorb the Law Merchant; and the Commercial Code is already adding a new uncertainty into this field where certainty is to be most earnestly sought. To add to the instructor's troubles the average student has had no practical contact with negotiable instruments other than the pleasure of cashing an occasional check.

Short of time, in this as in all subjects, what can the instructor do? One thing he might do is to consider Professor Aigler's new casebook. Although called a Second Edition it is essentially a new book. The authors stoutly maintain that this edition is still a casebook and not a text, but in truth it is a skillful blending of the two. It is thinner than its predecessor, thinner than the ordinary casebook, but its lack of bulk is an illusion achieved by use of a two column page. Whether this change of format is desirable will be a matter of personal opinion, but so far as the material itself is concerned, the book certainly should be well received.

The authors have used text to avoid the wasteful inclusion of much case material which merely states the obvious. Cases serve as springboards to more difficult problems, and further text and comment illuminate the cases themselves when necessary. Sections of the N.I.L. are contrasted with those of the Commercial Code, while unusually ample footnotes give examples of cases in point and provide additional reference material for the student whose time and inclination lead him to search further.

Where to start the subject has always been a problem peculiar to Bills and Notes. Is it better to badger the student with the formal requisites of negotiability at the outset, at a time when he cannot see what difference it makes, or should the effects of negotiability upon the liability of parties be taught before he knows what instruments give rise to those effects? The authors have resolved the dilemma by adopting the latter course. Their reasons for doing so seem sound, and I suppose it makes as much sense to start one place as it does another. In any event the student has to take a great deal on faith, and the best the instructor can hope for is that the light will break before the arrival of the examination ends the course.

A possible weakness of a book such as this is one inherent in all good casebooks or texts in that they tend to reduce the friction of learning to a point where the material may slide so smoothly through the student's mind that they leave little if any residue sticking in the pipes. It could result in a mere imparting of information with the hard work already done by the casebook editor. Perhaps the ideal method of teaching law would be to discard all casebooks and texts and send the student to the library to do his own research under the guidance of a great teacher. However, few teachers are great, time is short, library facilities are limited, and not many students have the essential curiosity vital to the success of such a method.

It is possible also that our hypothetical student, on arriving at the library, would take as his point of departure a book such as this, in which case he would be right back where he started from, and yet should be complimented for having had the good sense to recognize a valuable tool when he saw it.

The question of whether good teaching involves the posing of problems or merely the answering of them is perhaps best resolved by choosing a middle course. When dealing with a subject as obscure as Negotiable Instruments possibly the emphasis should rest on the answering — the problems posed and unanswerable being sufficiently numerous already. If this be so, then Professors Aigler and Steinheimer have done a good job. This should be an interesting book to work with.

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MCCORMICK ON EVIDENCE. By Professor Charles T. McCormick.
Indianapolis: Bobbs-Merrill Co., 1954. Pp. 774.

An examination of Professor McCormick's Hornbook on Evidence reveals a fine accomplishment and complement to his case book on the same subject. A reviewer seeking to critically analyze this hornbook in an adverse sense would find himself in a most difficult position.